

GOVERNMENT OF TELANGANA

ABSTRACT

Tribal Welfare Department -Khammam District- Revision Petition filed by Sri Kota Venkateswarlu S/o Late Sri Kota Tirupathaiah R/o Burada Raghavapuram (V), Enkoor (M), Erstwhile Khammam District aggrieved by the orders of the Addl.Agent to Government, Bhadrachalam in CMA No.195/2005 Dt:22-09-2007- Rejected - Orders – Issued

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 6

Dated: 01-02-2018,
Read the following:-

- 1) Proceedings of the Addl.Agent to Govt., Bhadrachalam in CMA No.195/2005 Dt:22-09-2007
- 2) Revision Petition filed by Sri Kota Venkateswarlu S/o Late Sri Kota Tirupathaiah R/o Burada Raghavapuram (V), Enkoor (M), Erstwhile Khammam District dt. 02.02.2008
- 3) Govt.Memo.No.1028/LTR-2/2008, dt:03-03-2008.
- 4) From the Addl.Agent to Government, Bhadrachalam, Khammam R.P.No.1028/LTR/LTR-2/2008-1(CMA.No.195/2005), dt.7.11.2008.
- 5) Govt. Lr. No.1028/LTR-2/2008, dt.20.04.2016, 26.05.2016, dt.3.8.2016, Dt.17.10.2016, dt. 16.12.2016, dt 28.01.2017, dt.8.3.2017 and dt.27.4.2017

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ORDER

In the reference 2nd read above, Sri Kota Venkateswarlu S/o Late Sri Kota Tirupathaiah R/o Burada Raghavapuram (V), Enkoor (M) has filed Revision Petition before the Government aggrieved by the orders of the Addl.Agent to Govt., Bhadrachalam in CMA No.195/2005 Dt:22-09-2007 in respect of land in Sy.No.213 to an extent of Acres 3.07 Guntas in Burda Raghavapuram Village of Enkoor Mandal, Erstwhile Khammam District.

2. In the reference 3rd read above, the Project Officer & Addl. Agent to Government, Bhadrachalam was requested to furnish Para Wise Remarks and connected case records and in the reference 4th read above the Addl. Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- The official Respondents ought to have seen that the transaction is between Non-Tribal and initiation of proceedings prima-facie is illegal and without jurisdiction.
- The learned official respondents ought to have seen that the Revenue records shows possession, enjoyment of the petitioner i.e. his father from the date of purchase i.e. much prior to the enactment, as such the LTR proceedings are not maintainable.
- The findings recorded by the appellate authority with regard to entries in the revenue records are concerned the findings are self contradictory.
- The learned Agent to Government ought to have seen that the order has passed against a dead person which is non-set in the eye of law.

4 The remarks of the Addl. Agent to Government, Bhadrachalam on the revision petition are as under:

- The Revision Petitioner's contention is that the official Respondents ought to have seen that the transaction is between Non-Tribals and initiation of LTR proceedings is illegal. Originally LTR case No.235/2001/ENK is initiated between Enuthula Mukunda Rao as

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Petitioner (4th Respondent here in) and one Kota Thriupathaiah as respondent (father of the Revision Petitioner here in). In the Lower Court that is before the Special Dy. Collector (TW), Bhadrachalam, the Kota Thirupataiah father of the Revision Petitioner not attended the Court and as per evidence available the Court passed orders. The Kota Thirupataiah nowhere mentioned how he got the land of Sri E.Mukunda Rao who is the 4th respondent herein. The burden is on the Non-Tribals to prove his possession is legal and not hit by regulation. The Revision Petitioner totally failed to prove his possession. Therefore the Lower Court rightly rejected the claim.

- The Lower Court without considering the Revenue records passed orders. Before the Additional Agent to Government, Bhadrachalam the Revision Petitioner filed pahani copies for the year 1968-69, 1970-71, 1990-91. As per pahani 1968-69, the 4th Respondent here in (E.Mukunda Rao) shown as pattadar and Guruavaiah shown as enjoyer. For the year 1970-71 Mukunda Rao shown as pattadar Vankayala Gopaiah, Thirupataiah Venkaiah shown as enjoyers. For the year 1990-91 Mukunda Rao shown as pattadar, Bhadraiah and (4) others shown as enjoyers. According to 1968-1969 pahani the Revision Petitioner's father's name (K.Tirupathaiah) is not even shown at least in enjoyer's column that mean it is clear and evident that the Revision Petitioner's father is not in possession of the schedule land prior to 1970. The documents filed by the Revision Petitioner's family clearly shows that their possession is after regulation. Hence it is clear case of violation and hit by regulation.
- The primary authority has not provided the opportunity. As seen from the Lower Court order dt:26.05.2005 in LTR case 235/2001/ENK the Revision Petitioner's father Thirupataiah not attended the court even after of the service of summons. Therefore the 1st Respondent herein passed orders as per the record available.
- The Lower Court i.e Special Deputy Collector(TW), Bhadrachalam passed orders on dead person. But before the Lower Court the Revision Petitioner's father did not attended the court even after service of summons and death was not brought to notice of the Court. Therefore the Lower Court passed orders. But before the Addl. Agent to Govt., Bhadrachalam, the Revision Petitioner showing himself as legal heir and filed the CMA. The question before the Court whether the Revision Petitioner's family is in Possession of Schedule land prior to the regulation or after commencement of regulation. In this case it is clear that the Revision Petitioner's family possession is illegal, void and hit by regulation. It is clear case of violation.
- In the facts and circumstances stated above that action taken by the Special Dy.Collector(TW), Bhadrachalam and Addl. Agent to Government, Bhadrachalam (Respondent 1 and 2 herein) respectively is proper and legally correct according to the provisions APSA LTR 1 of 59 amended by Regulation 1/1970.
- While submitting the above facts to the Government, Additional Agent to Government, Bhadrachalam, has requested the Government, to dismiss the Revision Petition in CMA No.195/05 dt:22.09.2007.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Addl.Agent to Government it is observed that;

- The Revision Petitioner's main pleas is that his father Kota Tirupathaiah has purchased the land to an extent of Ac 03-07 gts in Sy.Nos .213 of Burada Raghavapuram (V) Enkoor (M) through a sada sale deed dt:14.06.1968 and that he or his father have been in continuous position from the date and hence the transfer is not hit by Act 1 of 1959 read with Act 1 of 1970.

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- As verified from the copies of documents submitted by Revision Petitioner the land was purchased by his father Late Sri Kota Tirupathaiah on 14.6.1968 through sada sale deed written on plain paper. Even he is unable to produce original sale deed/ Agreement written on white paper. Further he is unable to produce Pahani for continuous periods from 1968-69 onwards. As such he cannot claim the land as owner/ possession from 1968 onwards.

6. Government after careful examination of the matter hereby rejects the Revision Petition filed Sri Kota Venkateswarlu S/o Late Sri Kota Tirupathaiah R/o Burada Raghavapuram (V), Enkoor (M), Erstwhile Khammam District and upholds the orders of the Addl. Agent to Government and Project Officer, ITDA, Bhadrachalam dt: 22-09-2007 in CMA No.195/2005 .

7. The Additional Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradi Kothagudem District shall take necessary further action accordingly. The original case records received in the reference 4th read above are returned herewith.

(BY ORDER AND IN THE NAME OF GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To

- 1) Sri Kota Venkateswarlu S/o Late Sri Kota Tirupathaiah
R/o Burada Raghavapuram (V), Enkoor (M), Erstwhile Khammam District
- 2) Sri Enuthula Mukunda Rao, R/o: Burada Raghavapuram(V), Enkoor(M),
Erstwhile Khammam District.
- 3) The Project Officer, ITDA and Additional Agent to Government,
Bhadrachalam, Bhadradi Kothagudem District (w.e.)

Copy to :

The District Tribal Development Officer, O/o: PO, ITDA, Bhadrachalam,
Bhadradi Kothagudem District

The Spl. Deputy Collector(TW), Bhadrachalam,
Bhadradi Kothagudem District for information and necessary action.

The Tahsildar, Enkur Mandal, Erstwhile Khammam District
for necessary action.

Sri T.L.K.Sharma, Advocate, #1-3-183/40/68/C/2, Gandhi Nagar,
Hyderabad -80.

P.S to M(TW)/P.S. to Secretary(TW)

SF/SC

//FORWARDED::BY ORDER//

SECTION OFFICER